REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

VICENTE R. SARCAOGA,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10850

Members:

REYES-FAJARDO, Chairperson, and **ANGELES**, JJ.

Promulgated:

MAR 19 2026
4:20 pm.

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DECISION

REYES-FAJARDO, J.:

THE CASE

The Petition for Review seeks the cancellation and withdrawal of respondent's deficiency assessments against petitioner for income tax, value-added tax (VAT), expanded withholding tax (EWT), and compromise penalties for Calendar Year (CY) 2018 in the total amount of ₱3,329,912.62, inclusive of surcharge and interest.[1]

THE PARTIES

Petitioner Vicente R. Sarcaoga is a registered taxpayer with the Bureau of Internal Revenue (BIR) under Taxpayer Identification Number (TIN) 153-874-868-000, with registered address at Sayre Highway, Hagkol, Valencia City, Bukidnon.[2]

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1 Statement of the Case, Pre-Trial Order dated September 7, 2023, Docket - Vol. I, p. 342.

2 Exhibit "P-1", Docket - Vol. I, p. 360.

Respondent, the Commissioner of Internal Revenue (CIR), is vested with the authority to perform the duties of the office, including the power to decide disputed tax assessments, subject to the exclusive appellate jurisdiction of this Court pursuant to Section 4 of the National Internal Revenue Code (NIRC) of 1997, as amended.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On July 10, 2020, respondent, through Regional Director (RD) Florante R. Aninag, issued a Letter of Authority (LOA) (SN: eLA201200017678 / LOA-099-2020-00000094), authorizing Revenue Officer (RO) Jeanifer Tano and Group Supervisor (GS) Amor Charmaigne Hernandez of Revenue District Office No. 099 - Malaybalay, Bukidnon, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the period January 1, 2018 to December 31, 2018.[4]

On June 14, 2021, the BIR issued a Notice of Discrepancy against petitioner. On June 17, 2021, petitioner received said Notice.[5]

On October 19, 2021, respondent, through RD Esmeralda M. Tabule, issued a Preliminary Assessment Notice (PAN), with attached Details of Computation and Details of Discrepancies. On November 4, 2021, petitioner received the PAN.[6]

On November 18, 2021, petitioner filed a Reply to PAN contesting the proposed deficiency assessments.[7]

On November 26, 2021, respondent, through RD Tabule, issued a Formal Letter of Demand and Final Assessment Notice (FLD/FAN), with attached Details of Computation and Details of Discrepancies. Thereafter, on December 13, 2021, the BIR issued a letter acknowledging receipt of petitioner's Reply to PAN and

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3 Par. 3, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket - Vol. I, p. 315.
4 Par. 4, Stipulation of Facts, JSFI, Docket - Vol. I, p. 316; Exhibit "P-4", Docket - Vol. I, p. 367; Exhibit "R-1", BIR Records (Exhibit "R-13"), p. 245.
5 Exhibit "R-7", BIR Records (Exhibit "R-13"), p. 359.
6 Par. 5, Stipulation of Facts, JSFI, Docket - Vol. I, p. 316; Exhibit "P-5", Docket - Vol. I, pp. 368 to 374; Exhibit "R-9" and "R-10", BIR Records (Exhibit "R-13"), pp. 404 to 410 and p. 411, respectively.
7 Exhibit "P-6", Docket - Vol. I, pp. 375 to 391.

informing petitioner that the FLD/FAN dated November 26, 2021 had already been issued.[8] On January 5, 2022, petitioner received both the FLD/FAN and said letter.[9]

On January 28, 2022, petitioner filed a Request for Reconsideration of the FLD/FAN.[10]

On February 17, 2022, the BIR issued a letter denying petitioner's request for reconsideration for failure to execute a waiver of the statute of limitations before the expiration of the three-year prescriptive period.[11] The letter further stated that the FLD/FAN had become final, executory, and demandable. On March 3, 2022, petitioner received said letter.[12]

PROCEEDINGS BEFORE THIS COURT

On April 1, 2022, petitioner filed the present Petition for Review.[13]

On August 1, 2022, respondent filed his Answer, interposing the following special and affirmative defenses: (1) respondent did not violate petitioner's right to administrative due process; and (2) petitioner is liable for the assessed deficiency taxes.[14]

On August 18, 2022, the Court issued a Resolution directing the parties to proceed to mediation before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) on September 20, 2022.[15]

On November 11, 2022, the parties, with the concurrence of the Mediator, filed a Request for Extension,[16] which was granted by the Court in its Resolution dated December 5, 2022.[17]

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8 Par. 7, Stipulation of Facts, JSFI, Docket - Vol. I, p. 316; Exhibit "P-8", Docket - Vol. I, p. 403.
9 Par. 6, Stipulation of Facts, JSFI, Docket - Vol. I, p. 316; Exhibit "P-7", Docket - Vol. I, pp. 392 to 402; Exhibit "R-11" and "R-12", BIR Records (Exhibit "R-13"), pp. 454 to 464 and p. 465, respectively.
10 Exhibit "P-9", Docket - Vol. I, pp. 404 to 427.
11 Exhibit "P-10", Docket - Vol. I, p. 86.
12 Exhibit "P-10", Docket - Vol. I, p. 86.
13 Docket - Vol. I, pp. 9 to 48.
14 Docket - Vol. I, pp. 223 to 230.
15 Docket - Vol. I, p. 234.
16 Docket - Vol. I, p. 242.

On December 22, 2022, the parties filed a Joint Motion to Defer Proceedings.[18] On February 8, 2023, the Court denied the motion, stating that in its Resolution dated December 5, 2022, the parties were given a non-extendible period of thirty (30) days from November 18, 2022, or until December 18, 2022, within which to reach an amicable settlement.[19]

On February 20, 2023, the PMC-CTA issued the Mediator's Report stating that mediation was unsuccessful.[20]

On April 13, 2023, the Pre-Trial Conference was held.[21]

On April 19, 2023, respondent transmitted the BIR Records for this case, consisting of one (1) folder with pages consecutively numbered from 1 to 557.[22]

On May 3, 2023, the parties submitted their Joint Stipulation of Facts and Issues,[23] which was approved by the Court in its Resolution dated May 23, 2023,[24] thereby terminating the pre-trial. Thereafter, on September 7, 2023, the Court issued the Pre-Trial Order.[25]

Trial ensued.

Petitioner testified on his own behalf.[26]

On September 21, 2023, petitioner filed his Formal Offer of Evidence through accredited courier.[27] On October 3, 2023, respondent filed his Comment (on Petitioner's Formal Offer of

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17 Docket - Vol. I, p. 245.
18 Docket - Vol. I, pp. 246 to 248.
19 Docket - Vol. I, p. 251.
20 Docket - Vol. I, p. 258.
21 Resolution dated February 8, 2023, Docket - Vol. I, p. 251; Notice of Pre-Trial Conference dated February 13, 2023, Docket, pp. 252 to 254; Minutes of the hearing held on, and Order dated, April 13, 2023, Docket - Vol I, pp. 295 to 297 and 304 to 305, respectively.
22 *Compliance* dated April 19, 2023, Docket, pp. 309 to 311.
23 Docket - Vol. I, pp. 315 to 321.
24 Docket - Vol. I, p. 324.
25 Docket - Vol. I, pp. 342 to 348.
Exhibit "P-11", Docket - Vol. I, pp. 131 to 142; Minutes of the hearing held on, and Order dated, September 7, 2023, Docket, pp. 349 to 351.
27 Docket - Vol. I, pp. 354 to 358.

Evidence). In the Resolution dated December 21, 2023, the Court admitted petitioner's offered exhibits.[28]

For his part, respondent presented the testimony of RO Amor Charmaigne Hernandez.[29]

On August 8, 2024, respondent filed his Formal Offer of Evidence.[30] On August 20, 2024, petitioner filed his Comment (to Respondent's Formal Offer of Evidence) through accredited courier. In the Resolution dated December 18, 2024, the Court admitted respondent's offered exhibits.[31]

On January 30, 2025, petitioner filed his Memorandum through accredited courier.[32] On February 21, 2025, respondent filed a Manifestation stating that he adopts the arguments raised in the Answer in lieu of filing a memorandum.[33]

On March 20, 2025, the case was submitted for decision.[34]

THE ISSUE

Is respondent's assessment against petitioner for alleged deficiency income tax, VAT, EWT, and compromise penalties for CY 2018, in the total amount of ₱3,329,912.62, valid?[35]

Petitioner's arguments:

Petitioner argues that: 1) respondent violated his right to administrative due process when respondent issued a FLD/FAN that merely reiterated the findings in the PAN without considering petitioner's Reply to PAN, thereby rendering the entire deficiency tax assessment against petitioner for CY 2018 null and void; and 2) even assuming the FLD/FAN was validly issued, the BIR's assessments

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28 Docket - Vol. I, pp. 438 to 439.
29 Exhibit "R-14", Docket - Vol. I, pp. 481 to 488; Minutes of the hearing held on July 24, 2024, Docket - Vol. I, p. 440.
30 Docket - Vol. I, pp. 493 to 498.
31 Docket - Vol. I, pp. 509 to 510.
32 Docket - Vol. II, pp. 512 to 548.
33 Docket - Vol. II, pp. 554 to 555.
34 Resolution dated March 20, 2025, Docket - Vol. II, p. 559.
35 Statement of Issues to be Tried and Resolved, JSFI, Docket - Vol. I, p. 316.

for deficiency income tax, VAT, EWT, and compromise penalties for CY 2018 lack factual and legal basis.

Respondent's counter-arguments:

Respondent maintains that: 1) he did not violate petitioner's right to administrative due process; and 2) petitioner is liable for the assessed deficiency taxes.

THE COURT'S RULING

The Petition for Review is partly meritorious.

The Court has jurisdiction over the case.

Section 7, in relation to Section 11 of Republic Act (RA) No. 1125, as amended by RA No. 9282,[36] pertinently provides:

> Sec. 7. Jurisdiction. — The CTA shall exercise:
>
> a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> 1. **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> . . .
>
> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. — **Any party adversely affected by a decision**, ruling or inaction **of the Commissioner of Internal Revenue**, . . . **may file an appeal with the CTA within thirty (30) days after the receipt of such decision** or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.[37]

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[36] An Act Expanding the Jurisdiction of the Court of Tax Appeals, Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, otherwise known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

[37] Emphasis supplied.

Indeed, a party aggrieved by the decision of respondent or his duly authorized representative[38] on a disputed assessment may seek recourse before the CTA within thirty (30) days from receipt thereof. This is consistent with the period to appeal granted to a taxpayer under Section 228 of the NIRC of 1997, as amended:

> Section 228. Protesting of Assessment. —
>
> . . .
>
> **If the protest is denied in whole or in part**, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision**, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.[39]

Here, on January 28, 2022, petitioner filed a Request for Reconsideration of the FLD/FAN.[40] Thereafter, on February 17, 2022, the BIR issued a letter denying petitioner's request for reconsideration.[41] On March 3, 2022, petitioner received the said letter.[42]

Counting thirty (30) days from March 3, 2022, petitioner had until April 2, 2022 within which to appeal before the Court. Timely enough, on April 1, 2022, petitioner filed the present Petition for Review,[43] thus vesting the Court with jurisdiction over the case.

Respondent violated petitioner's right to due process by failing to address the Reply to PAN.

Section 228 of the NIRC of 1997, as amended, provides:

> SEC. 228. Protesting of Assessment. —
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> . . .

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38 Philippine Amusement and Gaming Corp. v. Bureau of Internal Revenue, G.R. No. 208731, January 27, 2016.
39 Emphasis supplied.
40 Exhibit "P-9", Docket - Vol. I, pp. 404 to 427.
41 Exhibit "P-10", Docket - Vol. I, p. 86.
42 Exhibit "P-10", Docket - Vol. I, p. 86.
43 Docket - Vol. I, pp. 9 to 48.

> **The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**[44]

To implement the above-quoted Section 228, Section 3 of Revenue Regulations (RR) No. 12-99,[45] as amended by RR No. 18-2013,[46] pertinently provides:

> SECTION 3. **Due Process Requirement in the Issuance of a Deficiency Tax Assessment. –**
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> 3.1.1 Preliminary Assessment Notice (PAN). - If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue a Preliminary Assessment Notice (PAN) for the proposed assessment. **It shall show in detail the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based** (see illustration in ANNEX 'A' hereof).
>
> **If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.**
>
> If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the finding of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> . . .
>
> 3.1.3 Formal Letter of Demand and Final Assessment Notice (FLD/FAN). - The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. **The**

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44 Emphasis supplied.

45 SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

46 SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

> **FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, otherwise, the assessment shall be void** (see illustration in ANNEX 'B' hereof).
>
> 3.1.5 Final Decision on a Disputed Assessment (FDDA). – The decision of the Commissioner or his duly authorized representative **shall state the (i) facts, the applicable law,** rules and regulations, or jurisprudence on which such decision is based, **otherwise, the decision shall be void** (see illustration in ANNEX 'C' hereof), and (ii) that the same is his final decision.[47]

These provisions require that the PAN, FLD/FAN, and FDDA must clearly state the factual and legal bases of the assessment as part of the taxpayer's right to administrative due process.

In *Ang Tibay v. Court of Industrial Relations* (*"Ang Tibay"*),[48] the Supreme Court emphasized that administrative due process requires that: 1) the administrative tribunal actually consider the evidence presented; and 2) the administrative tribunal render its decision in such a manner that the parties may know the issues involved and the reasons for the decision.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*"Avon"*),[49] the Supreme Court further explained that the taxpayer's right to be heard necessarily includes not only the right to submit explanations and evidence, but also the corresponding duty on the part of the BIR to consider such submissions and to give reasons when they are rejected.

In *Avon*, the taxpayer submitted explanations and supporting documents during the informal conference and again in its protest to the PAN. Despite these submissions, the BIR issued a PAN and subsequently an FLD/FAN that merely reiterated the audit findings without addressing the taxpayer's explanations. The Supreme Court categorically pronounced that such inaction violated the taxpayer's right to due process:

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47 Emphasis supplied.
48 G.R. No. L-46496, February 27, 1940.
49 G.R. Nos. 201398-99, October 3, 2018.

> It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. **However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record.**
>
> Indeed, **the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before her by Avon are deplorable transgressions of Avon's right to due process.** The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.[50]

Thus, while the CIR is not bound to accept the taxpayer's explanations, due process requires that the reasons for rejecting such explanations be stated, together with the factual and legal bases of the conclusions reached.[51]

The same principle was reiterated in *Commissioner of Internal Revenue v. Unioil Corporation ("Unioil")*,[52] where the Supreme Court stressed that, in exercising the power to assess and collect taxes, the CIR must give due consideration to the arguments and evidence submitted by the taxpayer.

Consequently, when the CIR or his duly authorized representative fails to meaningfully consider the taxpayer's explanations and supporting evidence, the resulting assessment is tainted with a violation of due process.[53]

Here, the PAN dated October 19, 2021 proposed the following deficiency tax assessments, inclusive of surcharge and interest:[54]

	Income Tax	VAT	EWT	Total
Basic Tax Deficiency	₱1,363,733.11	₱579,400.83	₱42,156.15	₱1,985,290.09
Add: Surcharge @ 25%	340,933.28	144,850.21	10,539.04	496,322.53
Interest @12 %				
(From due date to 10.19.2021)	411,137.51	189,916.48	14,025.87	615,079.86
Total Tax Deficiency	₱2,115,803.90	₱914,167.52	₱66,721.06	₱3,096,692.48

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50 Emphasis supplied.

51 Commissioner of Internal Revenue v. Avon Manufacturing, Inc. et. al., G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

52 G.R. No. 204405, August 4, 2021.

53 Commissioner of Internal Revenue v. Avon Manufacturing, Inc. et. al., G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

54 Exhibit "P-5", Docket - Vol. I, pp. 368 to 374.

In petitioner's Reply to PAN,[55] petitioner disputed several findings of the BIR, particularly: (i) the alleged undeclared purchases based on reconciliation using Audit Information, Tax Exemption and Incentives Division (AITEID) data; (ii) the alleged undeclared sales derived therefrom; (iii) the VAT consequences arising from the alleged undeclared sales; and (iv) the disallowed input VAT claims allegedly due to unsubstantiated purchases.

Petitioner argued that the Third-Party Information extracted from the AITEID database was unverified and, hence, merely presumptive, such that an assessment based thereon would violate the taxpayer's right to be properly informed of the factual bases of the assessment.

Notwithstanding petitioner's explanations, respondent thereafter issued the FLD/FAN dated November 26, 2021, reflecting the following deficiency tax assessments:[56]

	Income Tax	**VAT**	**EWT**	**Total**
Basic Tax Deficiency	₱1,363,733.11	₱579,400.83	₱42,156.15	₱1,985,290.09
Add: Surcharge @ 25%	340,933.28	144,850.21	10,539.04	496,322.53
Interest @12 %				
(From due date to 11.26.2021)	428,174.83	197,155.02	14,552.53	639,882.38
Total Tax Deficiency	₱2,132,841.22	₱921,406.06	₱67,247.72	₱3,121,495.00

A comparison of the PAN and the FLD/FAN shows that the basic tax deficiencies remained unchanged, with the only adjustments pertaining to the recomputation of interest up to November 26, 2021 and the corresponding penalties.

More significantly, a comparison of the "Details of Discrepancy" attached to the PAN and the FLD/FAN shows that the latter merely reproduced the former without addressing petitioner's defenses raised in the Reply to PAN:

PAN	FLD
DETAILS OF DISCREPANCY	DETAILS OF DISCREPANCY
1. Power of the Commissioner to Examine and Make Assessments	1. Power of the Commissioner to Examine and Make Assessments

[55] Filed on November 18, 2021, Exhibit "P-6", Docket - Vol. I, pp. 375 to 390.

[56] Exhibit "P-7", Docket - Vol. I, pp. 392 to 402.

The composition of your tax deficiencies was based on the provisions providing for the power of the Commissioner to examine the books of accounts and records and to make assessment under the NIRC of 1997, as amended, which provide,	The composition of your tax deficiencies was based on the provisions providing for the power of the Commissioner to examine the books of accounts and records and to make assessment under the NIRC of 1997, as amended, which provide,
SEC. 5. In ascertaining the correctness of any return, or in making a return when none has been made, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability or in evaluation tax compliance, the Commissioner is authorized: A. To examine any book, paper, record, or other data which may be relevant or material to such inquiry.	SEC. 5. In ascertaining the correctness of any return, or in making a return when none has been made, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability or in evaluation tax compliance, the Commissioner is authorized: A. To examine any book, paper, record, or other data which may be relevant or material to such inquiry.
SEC. 6 (A). Examination of Returns and Determination of Tax Due. - After a return has been filed as required under the provisions of this Code, the Commissioner or his duly unauthorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: Provided, however, that failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.	SEC. 6 (A). Examination of Returns and Determination of Tax Due. - After a return has been filed as required under the provisions of this Code, the Commissioner or his duly unauthorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: Provided, however, that failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
The tax or any deficiency tax so assessed shall be paid upon notice and demand from the Commissioner or from his duly authorized representatives.	The tax or any deficiency tax so assessed shall be paid upon notice and demand from the Commissioner or from his duly authorized representatives.
SEC. 6 (B). Failure to Submit Required Returns, Statements, Reports and other Documents. - When a report required by law as a basis for the assessment of any national internal revenue tax shall not be forthcoming within the time fixed by laws or rules and regulations or when there is reason to believe that any such report is false, incomplete or erroneous, the Commissioner shall assess the proper tax on the best evidence obtainable.	SEC. 6 (B). Failure to Submit Required Returns, Statements, Reports and other Documents. - When a report required by law as a basis for the assessment of any national internal revenue tax shall not be forthcoming within the time fixed by laws or rules and regulations or when there is reason to believe that any such report is false, incomplete or erroneous, the Commissioner shall assess the proper tax on the best evidence obtainable.
2. Income Tax	**2. Income Tax**
Third Party Information on the Reconciliation of Listings for Enforcement (RELIEF) data from Audit Information Tax Exemption and Incentives Division (AITEID) showed undeclared purchases of ₱299,583.94 (Please See Schedule I). This is in line with the provision stated in the Revenue Memorandum Order No. 30-2003 that all RELIEF data shall be utilized in the conduct of investigation. To arrive at the additional taxable income of P322,375.92, a Cost Ratio of 92.93% was utilized. However, upon reconciliation of the RELIEF data pertaining to sales as against the submitted Summary List of Sales, it was found out	Third Party Information on the Reconciliation of Listings for Enforcement (RELIEF) data from Audit Information Tax Exemption and Incentives Division (AITEID) showed undeclared purchases of ₱299,583.94 (Please See Schedule I). This is in line with the provision stated in the Revenue Memorandum Order No. 30-2003 that all RELIEF data shall be utilized in the conduct of investigation. To arrive at the additional taxable income of P322,375.92, a Cost Ratio of 92.93% was utilized. However, upon reconciliation of the RELIEF data pertaining to sales as against the submitted Summary List of Sales, it was found out

that there were no names indicated therein which is a clear violation to the provision of Revenue Regulations No. 8-2002. Hence, the sales data farmed out from AITEID were outrightly added to the taxable income (Please See Schedule 2).	that there were no names indicated therein which is a clear violation to the provision of Revenue Regulations No. 8-2002. Hence, the sales data farmed out from AITEID were outrightly added to the taxable income (Please See Schedule 2).
Subsequently, audit of your records revealed that a portion of your purchase amounting to P1,772,780.74 were not substantiated with official receipts and supporting documents. Section 34 (A) (1) (b) of the National Internal Revenue Code, as amended states that no deduction from gross income shall be allowed unless the taxpayer shall substantiate with sufficient evidence, such as official receipts or other adequate records.	Subsequently, audit of your records revealed that a portion of your purchase amounting to P1,772,780.74 were not substantiated with official receipts and supporting documents. Section 34 (A) (1) (b) of the National Internal Revenue Code, as amended states that no deduction from gross income shall be allowed unless the taxpayer shall substantiate with sufficient evidence, such as official receipts or other adequate records.
After taking into account the income tax payments, there is still **Income Tax Deficiency of ₱ 2,115,803.90**, inclusive of legal increments.	After taking into account the income tax payments, there is still **Income Tax Deficiency of ₱ 2,132,841.22**, inclusive of legal increments.
3. Value-Added Tax	**3. Value-Added Tax**
The abovementioned undeclared sales were subsequently subjected to 12% output tax. Furthermore, in conformity with Section 113 and 237 of the National Internal Revenue Code (NIRC) of 1997, as amended, a portion of the purchases amounting to P2,072,364.67 which was unsubstantiated was disallowed of input tax. After considering the total VAT payments of ₱180,119.36, the total **Value-Added Tax Deficiency** amounted to **₱914,167.52**, inclusive of legal increments.	The abovementioned undeclared sales were subsequently subjected to 12% output tax. Furthermore, in conformity with Section 113 and 237 of the National Internal Revenue Code (NIRC) of 1997, as amended, a portion of the purchases amounting to P2,072,364.67 which was unsubstantiated was disallowed of input tax. After considering the total VAT payments of ₱180,119.36, the total **Value-Added Tax Deficiency** amounted to **₱921,406.06**, inclusive of legal increments.
4. Expanded Withholding Tax	**4. Expanded Withholding Tax**
Per Revenue Regulations No. 11-2018, you have been included as one of the Top Withholding Agents for purposes of the Expanded Withholding Tax. As such, it is required to withhold the one percent (1%) creditable withholding tax on purchase of goods and two percent (2%) on purchase of services. Thus, the abovementioned purchases and expenses were subjected to appropriate withholding tax rates as set forth in Revenue Regulations No. 2-1998, as amended by Revenue Regulations No. 11-2019. It was ascertained that no Expanded Withholding Tax payment was made, hence, it resulted to **Expanded Withholding Tax Deficiency of ₱66,721.06**, inclusive of legal increments.	Per Revenue Regulations No. 11-2018, you have been included as one of the Top Withholding Agents for purposes of the Expanded Withholding Tax. As such, it is required to withhold the one percent (1%) creditable withholding tax on purchase of goods and two percent (2%) on purchase of services. Thus, the abovementioned purchases and expenses were subjected to appropriate withholding tax rates as set forth in Revenue Regulations No. 2-1998, as amended by Revenue Regulations No. 11-2019. It was ascertained that no Expanded Withholding Tax payment was made, hence, it resulted to **Expanded Withholding Tax Deficiency of ₱67,247.72**, inclusive of legal increments.
5. Liabilities and Penalties Imposed	**5. Liabilities and Penalties Imposed**
The following Internal Revenue Tax Liabilities and penalties were imposed pursuant to the provision of the NIRC, as amended, to wit: a. Income Tax under Section 24 (A); b. Value-Added Tax under Section 105, 106, and 108 of the NIRC of 1997, as amended; c. Expanded Withholding Tax under Section 57 as implemented by Revenue Regulations No. 2-1998, as amended;	The following Internal Revenue Tax Liabilities and penalties were imposed pursuant to the provision of the NIRC, as amended, to wit: a. Income Tax under Section 24 (A); b. Value-Added Tax under Section 105, 106, and 108 of the NIRC of 1997, as amended; c. Expanded Withholding Tax under Section 57 as implemented by Revenue Regulations No. 2-1998, as amended;

d. Twelve Percent (12%) interest per annum has been imposed starting January 1, 2018 pursuant to Section 75 of Republic Act No. 10963 (TRAIN LAW) amending Section 249 (B) of the NIRC of 1997; and e. The imposition of compromise penalties aggregating to **₱208,417.62** as sanctioned by Revenue Memorandum Order (RMO) No. 19-2007, as amended by RMO No. 7-2015.	d. Twenty-five percent (25%) surcharge was imposed pursuant to the provisions of Section 248 (B) of the NIRC, as amended; e. Twelve Percent (12%) interest per annum has been imposed starting January 1, 2018 pursuant to Section 75 of Republic Act No. 10963 (TRAIN LAW) amending Section 249 (B) of the NIRC of 1997; and f. The imposition of compromise penalties aggregating to **₱208,417.62** as sanctioned by Revenue Memorandum Order (RMO) No. 19-2007, as amended by RMO No. 7-2015.

The Details of Discrepancy attached to the PAN and the FLD/FAN are substantially identical. Thus, as to the assessment items specifically disputed by petitioner in the Reply to PAN, respondent did not explain why petitioner's arguments were rejected, nor did respondent show how petitioner's explanations and supporting submissions were evaluated.

The records further show that although respondent issued confirmation letters to certain third-party sources, no replies were received.[57] Despite this, the assessments based on such third-party information were retained in the FLD/FAN without any discussion of petitioner's objections thereto.

These circumstances show that petitioner's explanations in the Reply to PAN were neither discussed nor meaningfully considered in the FLD/FAN. As a result, petitioner was left unaware of how respondent or his duly authorized representatives evaluated the defenses raised against the disputed assessment items.[58]

As in *Avon*, respondent violated petitioner's right to due process when he failed to provide reasons for rejecting petitioner's explanations in the Reply to PAN.

Accordingly, the deficiency tax assessments are void and unenforceable only with respect to the assessment items specifically

[57] BIR Records (Exhibit "R-13"), pp. 278 to 316.
[58] Commissioner of Internal Revenue v. Avon Manufacturing, Inc. et. al., G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

disputed by petitioner in the Reply to PAN but left unaddressed by respondent in the FLD/FAN.

However, the due process infirmity does not extend to the portions of the assessments that were not specifically refuted by petitioner in the Reply to PAN. With respect to those items, the Court proceeds to examine their factual and legal validity based on the evidence on record.

Petitioner remains liable for the remaining assessment items not affected by the due process defect.

After an independent evaluation of the evidence presented by the parties, the Court finds that petitioner remains partially liable for deficiency Income Tax, VAT and EWT for CY 2018 in the aggregate amount of ₱1,300,093.89.

As stated in the FLD/FAN,[59] petitioner was assessed deficiency Income Tax, VAT and EWT in the aggregate amount of ₱3,121,495.00, inclusive of surcharge and interest for CY 2018, as detailed below:

	Income Tax	VAT	EWT	Total
Basic Tax Deficiency	₱1,363,733.11	₱579,400.83	₱42,156.15	₱1,985,290.09
Add: Surcharge @ 25%	340,933.28	144,850.21	10,539.04	496,322.53
Interest @12 %				
(From due date to 11.26.2021)	428,174.83	197,155.02	14,552.53	639,882.38
Total Tax Deficiency	₱2,132,841.22	₱921,406.06	₱67,247.72	₱3,121,495.00

In addition, respondent imposed compromise penalties of ₱208,417.62.[60]

Income Tax

Under Section 34(A)(1)(b) of the NIRC of 1997, as amended, no deduction from gross income shall be allowed unless the taxpayer substantiates the same with sufficient evidence, such as official receipts or other adequate records.

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[59] Exhibit "P-7", Docket - Vol. I, pp. 392 to 402.

[60] Exhibit "P-7", Docket - Vol. I, at p. 397.

Here, respondent asserts that a portion of petitioner's purchases amounting to ₱1,772,780.74 was not substantiated with official receipts (ORs) and supporting documents:

Purchases per FS	₱31,339,286.28
Less: Purchases per OR presented	29,566,505.54
Disallowed Expenses	₱1,772,780.74

Petitioner claims that the Details of Computation do not explain how respondent arrived at the amount of unsupported purchases. However, upon the Court's examination of the records, petitioner failed to present sufficient supporting documents to refute respondent's findings or to substantiate the claimed purchases. Thus, in the absence of competent evidence to the contrary, the assessment on unsupported expenses in the amount of ₱1,772,780.74 is sustained.

Accordingly, petitioner is liable for deficiency basic Income Tax in the amount of ₱538,220.38, computed as follows:

Taxable Income Per Return		₱727,583.23
Add: Adjustment		
Unsupported Expenses		1,772,780.74
Adjusted Taxable Income		₱2,500,363.97
Income Tax Due:		
First ₱2,000,000.00	₱490,000.00	
Excess of ₱2,000,000.00 (32%)		
(₱500,363.97 x 32%)	160,116.47	₱650,116.47
Less: Tax Credits		
Quarterly Income Tax Payments	₱ 28,965.09	
Annual Income Tax Payment	82,931.00	111,896.09
Basic Income Tax Deficiency		**₱538,220.38**

VAT

Given petitioner's failure to substantiate purchases amounting to ₱1,772,780.74, the disallowance of the corresponding input VAT claims is likewise sustained.

Consequently, petitioner is liable for basic deficiency VAT in the amount of ₱233,883.48, computed as follows:

Sales Declared per VAT Returns		₱33,455,794.49
VAT Rate		12%
		₱4,014,695.34
Less: Allowable Input Tax		
Purchases per Returns	₱31,778,551.56	
Less: Disallowed claims due to unsubstantiation	1,772,780.74	
Total Purchases Allowed for Input Tax	₱30,005,770.82	
Input Tax Rate	12%	3,600,692.50
Basic VAT Due		₱414,002.84
Less: VAT Payments per return		180,119.36
Basic VAT Deficiency		₱233,883.48

EWT

Respondent states that, pursuant to RR No. 11-2018, petitioner was included among the Top Withholding Agents (TWAs) for purposes of EWT. As such, petitioner was required to withhold one percent (1%) creditable withholding tax (CWT) on purchases of goods and two percent (2%) on purchases of services.

Respondent found that no EWT payments were made, resulting in a basic EWT deficiency of ₱42,156.15, broken down as follows:

	Tax Base	Rate	EWT
Purchases	₱3,955,446.43	1%	₱39,554.46
Supplies and Materials	47,040.61	1%	470.41
Communication, Light & Water	16,656.11	2%	331.30
Fuel, Oil & Lubricants	80,431.66	1%	804.32
Office Supplies	5,262.01	1%	52.62
Repairs and Maintenance	49,981.73	2%	939.63
Transportation and Travel	170.17	2%	3.40
Total Basic EWT Due			**₱42,156.15**

Petitioner counters that there is no basis for the assessment because he allegedly did not receive written notice classifying him as a TWA. Petitioner argues that under RR No. 17-2003, a taxpayer cannot be considered a TWA without written notice from the CIR.

Petitioner further contends that the obligation to withhold must be accompanied by the authority to withhold, which, according to him, arises only upon receipt of such written notice.

Petitioner's contention is unmeritorious.

Section 15 of RR No. 11-2018 expressly provides that all inconsistent rules and regulations are deemed revoked.[61] Accordingly, RR No. 11-2018 governs in lieu of RR No. 17-2003.[62]

Moreover, Section 2.57.2(I)[63] of RR No. 2-98,[64] as amended by RR No. 11-2018, provides that the list of TWAs shall be published in a newspaper of general circulation and may also be posted on the BIR website, which publication constitutes sufficient notice to the concerned taxpayers.

In relation thereto, Revenue Memorandum Order (RMO) No. 26-2018[65] provides that while the publication of the approved list already constitutes notice to the TWAs, concerned Revenue District Offices (RDOs) may still serve individual written notices of inclusion or deletion. However, the obligation to withhold shall commence on the first day of the month following the month of publication.

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61 SUBJECT: Amending Certain Provisions of Revenue Regulations No. 2-98, as Amended, to Implement Further Amendments Introduced by Republic Act No. 10963, Otherwise Known as the "Tax Reform for Acceleration and Inclusion (TRAIN)" Law, Relative to Withholding of Income Tax.

62 SUBJECT: Amending Further Pertinent Provisions of Revenue Regulations No. 2-98, as Amended, Providing for Additional Transactions Subject to Creditable Withholding Tax; Re-Establishing the Policy that the Capital Gains Tax on the Sale, Exchange or Other Disposition of Real Property Classified as Capital Assets Shall be Collected as a Final Withholding Tax, Thereby Further Amending Revenue Regulations Nos. 8-98 and 13-99, as Amended by Revenue Regulations No. 14-2000; and for Other Purposes.

63 The top withholding agents by concerned LTS/RRs/RDOs shall be shall be published in a newspaper of general circulation. It may also be posted in the BIR website. These shall serve as the 'notice' to the top withholding agents. The obligation to withhold under this sub-section shall commence on the first (1st) day of the month following the month of publication. . .

64 SUBJECT: Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.

65 SUBJECT: Prescribing the Guidelines in Monitoring, Identification, Inclusion and Deletion of Top Withholding Agents Pursuant to the Pertinent Provisions of Revenue Regulations No. 11-2018.

Notably, petitioner's name was published on page D97 of the October 8, 2018 issue of the Malaya Business Insight newspaper, which contained respondent's Notice to the Public with the approved list of TWAs pursuant to RR No. 11-2018.[66] The same list was likewise made accessible through the BIR website.[67]

Accordingly, petitioner's obligation to withhold commenced on November 1, 2018, or the first day of the month following the month of publication.

Consequently, the assessment on unpaid EWT in the amount of ₱42,156.15 is sustained.

Compromise Penalties

Respondent imposed compromise penalties of ₱208,417.62 upon petitioner for the following violations:

Failure to file and /or pay income tax at the time or times by law or regulation	₱50,000.00
Failure to file and /or pay VAT at the time or times by law or regulation	50,000.00
Failure to make/file/submit complete alphalist of employees and supply correct information in BIR Form No. 1601-C	25,000.00
Failure to supply complete information on SLSP	25,000.00
Failure to supply complete information on FS	25,000.00
EFPS Penalty	23,417.62
Failure to withhold or remit withheld taxes at the times required by law or regulations	10,000.00
Total Compromise Penalties	**₱208,417.62**

However, it is well-settled that the Court has no jurisdiction to compel the payment of compromise penalties, because by their very nature they imply a mutual agreement between the parties with respect to the matter compromised.[68] Absent a showing that petitioner consented to the compromise penalties, their imposition

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66 No. 320, Individual TWA of Revenue District Office No. 99 – Malaybalay, Bukidnon.

67 D97, Malaya Business Insight, BIR Website *available at*: https://bir-cdn.bir.gov.ph/local/pdf/Page%2097%20BIR%20Inclusion%20Individual.pdf (*Last accessed: March 16, 2026*).

68 The Philippines International Fair, Inc. v. The Collector of Internal Revenue, et al., G.R. Nos. L-12928 and L-12932, March 31, 1962.

should be cancelled. The imposition of the same without the conformity of the taxpayer is illegal and unauthorized.[69]

WHEREFORE, in light of the foregoing considerations, the present Petition for Review is **PARTIALLY GRANTED**.

The assessments issued by respondent against petitioner covering deficiency Income Tax, VAT and EWT for CY 2018 are **UPHELD IN PART**. Accordingly, petitioner is **ORDERED TO PAY** respondent the aggregate amount of **₱1,300,093.89**, inclusive of twenty-five percent (25%) surcharge and twelve percent (12%) deficiency interest imposed under Section 248(A) (3) and Section 249(B) and (C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN) Law and as implemented by RR No. 21-2018, computed until February 4, 2022[70], as follows:

	Income Tax	**VAT**	**EWT**	**TOTAL**
Basic Tax Due	₱538,220.38	₱233,883.48	₱42,156.15	₱814,260.01
Add: 25% Surcharge	134,555.10	58,470.87	10,539.04	203,565.00
12% Deficiency Interest Apr. 16, 2019 to Feb. 4, 2022 (₱538,220.38 x 12% x 1026 / 365)	181,549.84			181,549.84
12% Deficiency Interest Jan. 26, 2019 to Feb. 4, 2022 (₱233,883.48 x 12% x 1106 /365)		85,043.88		85,043.88
12% Deficiency Interest Jan. 11, 2019 to Feb. 4, 2022 (₱42,156.15 x 12% x 1121 / 365)			15,675.16	15,675.16
Total Amount Due, Feb. 4, 2022	**₱854,325.32**	**₱377,398.23**	**₱68,370.35**	**₱1,300,093.89**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) per annum on the total unpaid deficiency taxes due as of February 4, 2022, in the amount of ₱1,300,093.89 or equivalent to ₱427.43[71] per day, computed

69 *Commissioner of Internal Revenue v. Lianga Bay Logging Co., Inc. et al.*, G.R. No. L-35266, January 21. 1999.

70 The Due Date reflected in the Assessment No. RR16-099-224-2021 is 30 days upon receipt, Date Received is January 05, 2022 by Ronald L. Sarcaoga, Exhibit "P-7", Docket – Vol. I, p. 392.

71 ₱1,300,093.89 x 12% / 365.

from February 5, 2022 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, and as implemented by RR No. 21-2018.

Lastly, pursuant to Section 13 of RA No. 9282, considering that this decision is partly favorable to the national government, the BIR, through respondent, is hereby authorized to seize and distrain any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property and/or levy upon the real property of petitioner in sufficient quantity to satisfy the tax or charge with any increment thereto incident to delinquency to the extent of the findings in this Decision.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

I CONCUR:

HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice